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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,310	12/11/2001	Ritesh P. Shah	32120-CON1	4218

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EXAMINER

ZHENG, LOIS L

ART UNIT PAPER NUMBER

1742

DATE MAILED: 04/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/014,310

Applicant(s)

SHAH ET AL.

Examiner

Lois Zheng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 32-40,42,43,47-55,57,58,61,68-75 and 83 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 32-40,42,43,47-55,57,58,61,68-75 and 83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Status of Claims

1. Claims 32-40, 42-43, 47-55, 57-58, 61, 68-75 and 83 are currently under examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 83 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In this case, claim 83 is rejected for the same reason as stated in paragraph 4 of the previous Office Action.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 32-40, 42-43, 47-55, 57-58, 61 and 68-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klose et al DD 284,905 A5(Klose).

The teachings of Klose are discussed in paragraph 6 of the previous Non-Final Office Action. The examiner maintains the rejections of instant claims 32-40, 42-43, 47-55, 57-58, 61 and 68-75 for the same reason as stated in previous Office Action.

Response to Arguments

6. Applicant's arguments filed 21 January 2005 have been fully considered but they are not persuasive.

In the remarks, applicants argue that the specification maybe considered to disclose higher multiples of random than 17.16 shown in Fig. 4, lines 23-30 and elsewhere throughout the specification. The examiner does not find the argument persuasive since the specification of the instant invention does not indicate that the about 17 random is the minimum center peak intensity for the tantalum material of the instant invention.

In the remarks, applicants argue that Klose is not in the same field of endeavor as the applicants and does not constitute analogous art because the tantalum sheet is directed to the manufacture of spinnerets and is not suitable as a sputtering target. The examiner does not found applicants' argument persuasive since the tantalum sheet being used in the manufacturing of spinnerets as disclosed by Klose is merely indicating the intended use for the tantalum sheet, therefore, does not preclude the tantalum sheet from being a sputtering target. Since Klose teaches that the tantalum is in the form of sheet or strip (page 7, see paragraph 6 of the previous Office Action) and applicants admitted prior art JP 08-269701 teaches that metal sheet can be used as sputtering

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target, one of ordinary skill in the art would have found using of tantalum sheet of Klose as a sputtering target obvious as evidenced by JP08-269701.

With respect to applicants' argument that Klose's disclosure of elevated percentage of crystallites oriented parallel to the rolling plane does not necessarily suggest the claimed "substantially uniform" tantalum texture, the examiner does not find the applicants argument persuasive since "elevated percentage" encompasses "substantially uniform". For example, 95% of the crystallites oriented parallel to the rolling plane would be considered as both at an elevated percentage and substantially uniform by one of ordinary skill in the art.

With respect to applicants' argument that Klose discloses a tantalum having a texture component of (100)[110] instead of claimed texture component of (100), the examiner finds the argument non-persuasive since the claims of the instant invention use open language "comprising" which would have included the other texture components such as [110].

With respect to applicants' argument that Klose does not disclose any maximum grain size as claimed, the examiner finds the argument non-persuasive since the grain size taught by Klose falls below the maximum grain size of 50 microns as claimed.

7. The declaration under 37 CFR 1.132 filed 21 January 2005 is insufficient to overcome the rejection of claims 33-37 based upon 35 U.S.C. 103(a) as set forth in the last Office action because: The declaration does not contain any actual data comparing the tantalum target texture and grain size of the reference Klose and the instant invention. Applicants' statements in the declaration without comparison data as factual

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evidence are considered merely conclusive statements. Therefore, the declaration is considered insufficient.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lois Zheng whose telephone number is (571) 272-1248. The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LLZ


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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700